IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 4357 OF 1996.
IN
FIRST APPEAL ST.NO.6882 OF 1995.

M/s.New India Assurance Co.Ltd. ... Applicant.
Versus.
Govind Gopal Talavadekar & ors. ... Respondents.

Shri S.R.Singh for the Applicant.

Shri P.R.Arjunwadkar for the Respondent No.1.

CORAM : ABHAY S.OKA, J.

DATED : 7th June, 2006.

P.C.:

1. Heard Shri Singh for the applicant and Shri Arjunwadkar for Respondent No.1. The Applicant-Insurance Company is the original Opponent No.5. The Respondent No.1 is the original Claimant in claim petition under section 166 of the Motor Vehicles Act, 1988. By the impugned Judgment and Award, the Opponents in the claim petition have been directed to pay a sum of Rs.50,000/- by way of compensation to the Respondents nos.1 together with interest. Opponent Nos.1 to 3 in the claim petition have been directed to pay 50% of the compensation and the Opponents nos.4 and the present Applicant have been directed to pay remaining 50% of the compensation.

2. The contention of the Applicant in the First Appeal is that it was not proved that the vehicle of the Opponent No.4 was insured with the Applicant. Even if the case made out by the Applicant is accepted in the

First Appeal and the First Appeal is allowed, the Award against the original Opponent Nos.1 to 3 and/or Opponent No.4 will remain. Therefore, even if the Applicant succeeds in the Appeal, compensation which may be paid by the Applicant can always be recovered by the Applicant from the concerned Opponents. In view of this position, no case is made out for grant of stay in favour of the Applicant. The application is rejected. It is however made clear that the payment of compensation by the Applicant and the withdrawal thereof by the Respondent No.1 will be subject to final outcome of the Appeal. If any amount is deposited by the Applicant in this Court, the same may be paid to the Respondent No.1.

Judge.